Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	FCC 03J-1

REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

Wayne R. Jortner
Senior Counsel
Maine Public Advocate
wayne.r.jortner@maine.gov
112 State House Station
Augusta, ME 04333
Phone (207) 287-2445
Fax (207 287-4317)

David C. Bergmann
Assistant Consumers' Counsel
Chair, NASUCA Telecommunications
Committee
bergmann@occ.state.oh.us
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Phone (614) 466-8574
Fax (614) 466-9475

NASUCA
8300 Colesville Road (Suite 101)
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

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Introduction

The National Association of State Utility Consumer Advocates ("NASUCA")[1] hereby replies to the comments filed in this docket concerning the need for modifications to the high-cost universal support mechanism and to the eligible telecommunications carrier ("ETC") designation process.[2] The comments support NASUCA's position that it is now time for the Federal-State Joint Board on Universal Service ("Joint Board") and the Federal Communications Commission ("Commission") to reevaluate the high-cost system as a whole and take steps to protect the integrity and sustainability of the universal service fund.[3]

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[1] NASUCA is an association of 41 consumer advocates in 40 states and the District of Columbia. NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts.

[2] See Public Notice, FCC 03J-1 (rel. February 7, 2001).

[3] Comments were filed by ACS of Fairbanks, Inc. ("ACS"), Alaska Telephone Association ("ATA"), AT&T Corp. ("AT&T"), Beacon Telecommunications Advisors, LLC ("Beacon"), BellSouth Corporation ("BellSouth"), Cellular Telecommunications & Internet Association ("CTIA"), CenturyTel, Inc. ("CenturyTel"), Dobson Communications Corporation ("Dobson"), Fred Williamson and Associates ("FW&A"), GVNW Consulting, Inc. ("GVNW"), ICORE Companies ("ICORE"), Idaho Telephone Association ("ITA"), Montana Telecommunications Association ("MTA"), Montana Universal Service Task Force ("MUST"), Moultrie Independent Telephone Company ("Moultrie"), National Telecommunications Cooperative Association ("NTCA"), Nebraska Rural Independent Companies ("NRIC"), Nextel Communications Inc. and Nextel Partners, Inc. ("Nextel"), Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO"), Public Utility Commission of Texas ("TexPUC"), SBC Communications Inc. ("SBC"), Smith Bagley, Inc. ("SBI"); Sprint Corporation ("Sprint"), Rural Cellular Association and Alliance of Rural CMRS Carriers ("RCA/ARC"), Rural Independent Competitive Alliance ("RICA"), Rural Telephone Finance Cooperative ("RTFC"), TCA, Inc. - Telecom Consulting Associates ("TCA"), Texas Statewide Telephone Cooperative, Inc. ("TSTC"), Townes Telecommunications, Inc., Golden West Telecommunications Cooperative, Inc., Penasco Valley Telephone Cooperative, Inc., Santel Communications Cooperative, Inc., and Venture Communications Cooperative (collectively "TGPSV"), United States Cellular Corporation ("USCC"), United States Telecom Association ("USTA"), Verizon, Washington Independent Telephone Association ("WITA"), Washington Utilities and Transportation Commission ("WashUTC"), Western Wireless Corporation ("Western Wireless"), WorldCom, Inc. d/b/a MCI, Inc. ("MCI").

I. The Commission Should Act Now to Restrain Growth in the High-Cost Fund.

NASUCA agrees with the WUTC (at 1) and NTCA (at 2) that the proper goal for the Commission is not just to maintain universal service (as stated in the Public Notice), but to "preserve and advance" universal service. 47 U.S.C. 254(b).[4] In order to advance universal service, however, the Commission must first take measures to preserve it. This demands review of all aspects of the operation of the high-cost support mechanism to ensure that the fund is supporting only services and carriers that need support. If the fund is allowed to continue its recent level of growth, the concept of universal service could lose public support and would no longer be sustainable.

The current policy of supporting all lines has the potential to drive the fund to unsustainable levels. As argued in NASUCA's initial comments, the Commission should immediately limit high-cost support to a single line per household.[5] As discussed below, multiple lines per household may represent $336 million -- or more than one-tenth -- of the current $3.2 billion high cost fund.[6] Limitation of support to single lines would reduce the current size of the high-cost fund and eliminate a key source of unnecessary growth in the USF.[7]

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[4] NASUCA agrees with SBC (at 5) that the Commission should return to "first principles." Yet contrary to SBC, these first principles do not include raising residential rates wherever possible in order to eliminate intrastate implicit support and to ensure that the rates are at the maximum affordable level. SBC at 2.

[5] If the Commission is concerned about the impact of this change on rural incumbent carriers, NASUCA submits that support for second lines could be phased out within five years for rural ILECs with fewer than 50,000 access lines within a state and within two years for rural carriers with more than 50,000 access lines. It may also be appropriate to consider rebasing support for the rural carriers with fewer than 50,000 access lines within a state.

[6] See Section II.D., below.

[7] As discussed elsewhere, the single supported line must include the full panoply of supported services.

Although payments to competitive eligible telecommunications carriers ("CETCs") -- mainly wireless carriers -- currently account for only a small percentage of the growth in the USF,[8] it is obvious that we are at the beginning of a steep growth curve in fund levels fueled by support for non-primary lines. See NASUCA Comments at 2. The high-cost fund currently amounts to approximately $3.2 billion on an annual basis. As MCI and others argue, CETCs received only 3.3% of the total high cost fund in the first quarter of 2003. MCI at 2. By the third quarter of 2003, however, CETC funding will double to 6.6%.[9] OPASTCO estimates that if all wireless carriers became ETCs -- a not unlikely possibility given current policies -- the USF would increase by $2 billion in short order. OPASTCO at 10; see also RICA at 11, CenturyTel at 9, RTFC at 2.

A January 2003 white paper (attached to OPASTCO's comments here) is the source of the $2 billion estimate.[10] Notably, the CETCs avoided addressing this estimate, which was filed as an ex parte in this proceeding four months ago.[11]

The addition of $2 billion to the high-cost fund would represent a further 27% increase in the $7.368 billion total USF projected for 2007 in the recent study performed

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[8] See comments of RCA/ARCC at 7-9; Nextel at 8-11; MCI at 2; Sprint at 5; CTIA at 4; Western Wireless at 7-8, 12; USCC at 6. These parties correctly point out that up to now the growth in the USF has been the result of payments to incumbent local exchange carriers ("ILECs") that are ETCs. *Id*. As previously noted, the Commission should look at all aspects of the fund.

[9] Based on the Universal Service Administrative Company's ("USAC's") Report for Third Quarter 2003, CETC funding will amount to $57.3 million out of total quarterly high-cost funding of $866.4 million. *Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2003*, USAC (May 2, 2003), at 12-17.

[10] "Universal Service in Rural America: A Congressional Mandate at Risk," OPASTCO (January 2003) at 21.

[11] See OPASTCO ex parte filing (January 28, 2003).

by the Staff of the Commission.[12] This would result in a concomitant increase in assessments -- under any contribution mechanism -- and would obviously be a matter of significant concern. As set forth in NASUCA's initial comments and herein, the Commission must address this concern by limiting support to single lines for each location and by limiting the amount of per line support to the lesser of a carrier's own costs or the costs of the incumbent. See NASUCA at 4-8, 11-14.

Next, these reply comments argue that universal service should be de-linked from the promotion of competition. Although universal service support should be competitively neutral, support should not be applied merely to subsidize competition. Where there is competition in high-cost areas, however, support for all carriers should be based on the carrier's own costs.

The reply comments then address the need for states and the Commission to carefully examine the designation of multiple ETCs in rural carriers' territories, in order to protect the public interest as required by the Act. Also in furtherance of the public interest, the states and the Commission should require carriers to provide a basic quality service package in order to be designated an ETC.

Before briefly addressing three other issues, these reply comments make two additional recommendations for limiting the size of the high-cost fund, addressing the rural carrier piece of the fund. These additional recommendations are necessary given the continual pleas of the carriers for more support.

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[12] Wireline Competition Bureau Staff Study of Alternative Contribution Methodologies, CC Docket 96-45, et al., "Commission Seeks Comment on Staff Study Regarding Alternative Contribution Methodologies," Public Notice, FCC 03-31 (rel. February 25, 2003) ("Staff Study").

II. High-Cost Support Should Be Limited to Primary Lines.

Continued support for non-primary lines is predominantly favored by carriers that have a perceived pecuniary interest in continuing to receive such support. The majority of commenters that opposed a proposal to limit support to primary lines were actually concerned more about the *total level of support* -- and that support not go to competitors -- than about the issue of how support is calculated. For example, the ITA, TSTCI, OPASTCO, USTA, and GVNW oppose limitation of support to primary lines as a result of their concern about total ILEC cost recovery. ITA at 9, TSTCI at 11, OPASTCO at 31-33, GVNW at 11-12. Yet "total ILEC cost recovery" is only indirectly a universal service issue (see Section III.C., below); the key task here is to design a more efficient and equitable mechanism with which to direct universal service support.

GVNW Consulting stated: "In the event that the objectives of competition and universal service cannot be reconciled, universal service must take precedence over competition." GVNW at 3. NASUCA is in full agreement with that general proposition. GVNW also expressed its concerns about the growth of the USF fund and cited OPASTCO's calculation that support for all wireless carriers would cause the fund to grow by $2 billion. GVNW at 7.

GVNW, like other commenters, defends the continuation of support for non-primary lines without reconciling that position with the need to limit the size of the fund and protect its primary purpose. Dilution of core universal service goals and excessive growth of the USF will result from support for non-primary lines, whether such lines are wireline or wireless. No commenter has challenged that proposition.

The position that non-primary lines should continue to receive support is based on little more than a concern that incumbent carriers continue to recover their revenue requirement and on the Commission's prior rejection of the Joint Board's recommendation to limit support to primary lines. Neither of these concerns is persuasive. The means by which incumbent ETCs have the opportunity to recover their revenue requirement is not at issue in this proceeding, and would not necessarily be substantially affected by limiting support to primary lines.

The Commission's prior rejection of the Joint Board's recommendation to support only primary lines was hardly unequivocal. In fact, as NASUCA noted in its initial comments, in 1997 the Commission explicitly shared the Joint Board's concern about the potential effects on the fund that might be caused by support for non-primary lines. Now, those concerns have materialized in the form of a rapidly increasing contribution factor. It appears that the 3Q03 contribution factor will be 9.5%.[13] Moreover, as AT&T points out, in the years since the Joint Board's original recommendation to limit support to primary lines, and the Commission's reluctant decision not to adopt that recommendation, the number of customers with multiple connections has increased dramatically. AT&T at 4.

NASUCA agrees with AT&T that the time has come to limit support to only primary lines. NASUCA also agrees with AT&T's conclusion that multiple connections per household or business are not "essential to education, health, or public safety" or the other statutory factors (citing 47 U.S.C. §254 (c)(1)(A)–(D)), and should therefore not be

[13] USAC has not yet formally reported a third quarter 2003 contribution factor. The 9.5% was calculated based on the 3Q03 Appendices available on USAC's website at www.universalservice.org.

subject to public support that burdens all customers. AT&T at 9. There is no other single alternative to the current system that will be more effective in controlling the size and growth of the universal service fund, while fulfilling the core universal service goal of ensuring a connection to the public switched network available to every household and business.

Dobson states that limiting support to single lines would reduce the size of the fund "to the benefit of all contributing carriers (and their customers)." Dobson at 13. However, Dobson suggests that, in order to preserve competitive neutrality, customers should be allowed to choose which connection is supported and says that there should be no presumption that ILEC lines are primary.

NASUCA agrees that customers should be allowed to choose their primary line but, for customers who fail to choose, the ILEC line should be designated "primary" by default. A presumption that the first ILEC line receives support will reduce the likelihood of sudden revenue shifts for the ILECs. Perhaps most importantly, in the absence of an affirmative customer choice to rely on CETC service, the Commission can be certain that core universal service services are being reliably provided by means of the ILEC's line. In the future, as wireless carriers improve their reliability and quality of service, they should have an equal chance to receive primary line designation.

Nextel appears to agree that support should be limited to one primary line per household or business, but fears that such a limitation would "make it extremely difficult for any carrier other than the incumbent to get universal service support." Nextel at 15. NASUCA proposed a competitively neutral limitation of support for primary lines whereby any carrier can achieve primary line designation by offering a reliable and affordable telecommunications service. If it will be more difficult for wireless carriers than ILECs to compete for the primary line designation, it will be because wireless carriers have been unable to provide competitive universal service connections in accordance with the criteria set out in NASUCA's initial comments. Under NASUCA's proposal, wireless carriers would have an incentive to enhance the public benefits associated their service.

It may, in fact, be more difficult for wireless carriers to demonstrate that their costs of service require public support, that their calling plans are affordable, and that they provide service that meets standards of quality and reliability comparable to providers of last resort. If such service distinctions exist, it *should* be harder for wireless carriers to receive high-cost support. When wireless carriers can meet those standards, they will have an equal opportunity to receive ETC status and win primary line designations.

By applying these high standards to all potential ETCs, competitive neutrality would be maintained. Conversely, the liberal funding of all carriers, regardless of their fulfillment of core universal service goals, slants the playing field toward CETCs and burdens all consumers in the U.S. by requiring the payment of support without concomitant public interest benefits.

RCA/ARCC argues that multiple wireless lines within a household all cause costs that need to be recovered. RCA/ARCC at 28. Although these additional wireless lines do have additional cost (albeit with diminished incremental costs, especially when billing accounts are consolidated), the position that all lines should be supported cannot be reconciled with the core universal service goal of providing affordable access to telecommunications for every household. Non-primary line wireless -- or wireline -- service may be both valuable and costly. As discussed below, however, there is no persuasive argument that such service should be publicly supported.

OPASTCO asserts that "[r]ural ILECs do not build lines. They build networks." OPASTCO at 31; see also NRIC at 23. OPASTCO then suggests that support for only primary lines would be inconsistent with the purpose of the high-cost fund and inconsistent with the way ILEC networks are planned. OPASTCO at 31-32. Yet 47 U.S.C. 254(e) requires that a "carrier that receives … support shall use that support only for provision, maintenance, and upgrading of *facilities and services for which the support is intended*." (Emphasis added.) If the Commission determines that only primary lines and certain services provided over those lines should be supported, then that support must be used only for primary lines. OPASTCO further asserts that high-cost support is intended to fund infrastructure investment rather than to reduce the rates charged to an individual end user. OPASTCO at 32. Yet the first statutory purpose of universal service support is actually to keep rates just, reasonable, and affordable. 47 U.S.C. 254(b)(1). In fact, given that mature ILEC networks already exist, the primary purpose of high-cost support is clearly to keep rates affordable for the end-user. The primary concern with diminishing universal service support is that rural rates will increase and no longer be comparable to urban rates.

The Commission has confirmed that federal USF high cost support is intended to support intrastate rates and/or facilities. In the Ninth Report and Order concerning the high-cost support mechanism for non-rural carriers, the Commission stated:

> We conclude that providing federal universal service high-cost support in the form of carrier revenue, to be accounted

> for by states in their intrastate process, is an appropriate mechanism by which to ensure that non-rural carriers use high-cost support only for the 'provision, maintenance and upgrading of facilities and services for which the support is intended'… For example, a state could adjust intrastate rates, or otherwise direct carriers to use the federal support to replace implicit intrastate support to high-cost rural areas….[14]

Likewise, in the Fourteenth Report and Order concerning the high-cost support mechanism for rural carriers the Commission stated: "As we concluded with regard to non-rural carriers, the federal high-cost support that is provided to rural carriers is intended to enable the reasonable comparability of intrastate rates, and states have jurisdiction over intrastate rates."[15] The Commission has made it quite clear that federal USF support may be used to enable comparable rates, to upgrade facilities, or in any other manner approved in the state ratemaking process.

Many commenters assume that support for primary lines only will cause the price of secondary lines to increase. E.g., OPASTCO at 37, MUST at 36, WUTC at 15. NASUCA agrees that this is a matter of some concern. Yet the rate design that determines the price for primary and secondary lines will be determined by state regulators in the intrastate ratemaking process.[16] There is no basis to assume that secondary lines will be priced higher, especially in view of the strong arguments, discussed below, that the cost of providing additional lines is much lower than the

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[14] Ninth Report and Order, paras. 95, 96.

[15] Fourteenth Report and Order, para. 187.

[16] See discussion in Part II.B., below.

provision of the first line.[17] For that reason, USTA's assertion that, absent support for second lines, carriers would "have little incentive to install sufficient facilities to accommodate second lines" is untrue. USTA at 6-7.

It is ironic that the WUTC raises concerns about the harmful effects of price distinctions between primary and secondary lines (WUTC at 15), because it will be entirely within the WUTC's discretion to avoid that outcome in the state of Washington. Because of this, it makes little sense for the Commission to assume a direct relationship between changes in the way support is calculated in the high-cost support mechanism and the retail price of primary versus secondary lines. Moreover, WUTC's concern that the correct price signal be sent to customers who buy multiple lines (*id*. at 17) makes sense only if one were to assume that, absent support, the cost of providing primary lines is the same as the costs of providing secondary lines. WUTC at 17. As discussed below, that assumption is incorrect.

NRIC, WITA and ATA raise the concern that support for primary lines only will drive up the cost of per-line support for both wireless and wireline carriers because those commenters assume that wireless support will continue to be based on ILEC revenue requirements. NRIC at 25, WITA at 8-9, ATA at 17. However, NASUCA's recommendations that CETC support be based on the costs of the CETC, not the ILEC, and that support be capped at the ILEC level, would alleviate any concern that the fund will grow as CETCs erode ILEC market share.

[17] In most cases, wireline facilities are installed so as to provide at least two connections for every customer. Presumably, turning on the second connection causes little incremental cost to the local carrier.

A. There Would Not Be Undue Administrative Burdens Associated With Primary Line Designation

ICORE concludes that any required distinction between primary and secondary lines would be "difficult to administer," but fails to make any convincing argument supporting that assumption. ICORE at 7; see also GVNW at 13, MUST at 36, RCA/ARCC at 27. In its initial comments NASUCA made several suggestions for a fair and efficient means to designate primary lines in a manner that will enhance competition. NASUCA at 6-7. Moreover, ILECs are currently required to distinguish between primary and other lines for assessing SLCs and allowing Lifeline support.

RCA/ARCC objects to placing carriers in the position of fighting over the customer designation and predicts that a "new round of 'slamming'" would result. RCA/ARCC at 27-28; see also NRIC at 24. Rather than assuming abuse by market participants, the Commission should assume that competition will benefit consumers and that slamming rules will be enforced. The WUTC, a party opposed to limiting support to only primary lines, acknowledges that slamming should not be a problem because the Commission "can take measures to deter such behavior." WUTC at 17. Equal access in the wireline long-distance market has certainly resulted in substantial net benefits for consumers even if slamming has occurred in a small percentage of transactions.

RTIA predicts that single line support will result in "bribes to the subscriber" and warns that adverse financial results will occur as they did when IXCs paid customers to switch after equal access was required. RTIA at 25. This argument seems to suggest that equal access was a mistake because it turned out that carriers became subject to competitive forces. NASUCA agrees with these commenters that primary line designation will create "competition," as did equal access. Support for one line, subject to competition for that support, is efficient. Support for all competitors is wasteful. These warnings by some of the commenting carriers should be viewed with skepticism because they would naturally prefer not to compete for support.

Commenters suggest a number of potential administrative difficulties in any process that would distinguish primary versus secondary lines. MCI at 7; OPASTCO at 35-36; TSTCI at 11; WUTC at 17-19. Underlying many of these scenarios is the OPASTCO and WUTC assumption that end-users will see a rate distinction between their primary and secondary lines. Carriers can charge averaged rates, however, eliminating the incentives to game the system (WUTC at 17) raised by several parties. Unlike self-interested carriers, WUTC seems to acknowledge that the administrative burdens associated with primary line designation are manageable. *Id*. at 17-18.

None of the commenters' concerns appear to be without a readily available remedy. For example, WITA asks how USAC would respond if one spouse designates a wireless service as primary and the other spouse designates a wireline service as the primary line. WITA at 7; see also MTA at 9. Answers to such questions are not terribly difficult to find. The remedy: USAC's computer systems can be programmed to reject a second primary line designation for one address. Of course, there should be some flexibility for unusual circumstances, such as when unrelated persons reside at a single address. These same problems are encountered in applying SLCs, approving Lifeline eligibility and in designating primary long distance carriers, and are dealt with on a daily basis by carriers, state regulators and the Commission. The procedures for dealing with conflicting primary line designations would become routine.

The majority of administrative concerns are related to the supposed incentive of consumers to game the system. For that reason, among others, NASUCA believes that states should refrain from designing rates in a way that increases the price of secondary lines. When consumers have no direct pecuniary interest in which line is designated primary, the majority of administrative concerns fade away. That is also true of WITA's concerns that withdrawal of support for second lines will cause a decrease in sales of second wireline accounts. WITA at 9.

Pessimism about the feasibility of new administrative tasks is premature before anyone has designed and implemented systems to carry out the desired functions. Given the billions of dollars at stake in the current inefficient system where subsidies are available for every line and where every type of carrier can become an eligible recipient, NASUCA believes that the administrative burdens will be small compared to the potential benefits of a more efficient system of universal service support. This is especially true because the alternative to restricting support to a primary line is granting support to all lines, whether or not they need support.

B. Parties Advocating Continued Support For Multiple Connections Have Failed to Address The Cost Difference Between Providing Primary and Additional Lines

Few parties have addressed the financial *need* to support non-primary lines. Given the architecture of both wireline and wireless facilities, it is very likely that the cost of subsequent connections by either type of provider is much lower than the initial connection.

AT&T correctly illustrates the cost difference between primary and secondary lines:

> When LECs construct new network facilities, such as for a new subdivision, they open up a single trench or put up a single set of poles, then lay multiple loops to each home or business in that facility. The costs of digging the trench or erecting the poles must be incurred fully in order to provide first-line service. There are few incremental costs to providing additional connections. By providing support for first lines only, the High Cost Support mechanisms would comport with this reality.

AT&T at 16. Second lines provided by a single firm to a single household or business tend to be more profitable than the initial line. Therefore, second lines may be provided at an affordable price in rural areas even without support, obviating concerns about increases to the price of second lines.

For those reasons, the Joint Board should reject the simple assumption, made by various commenters, that the price of second lines will rise if high-cost support is based on primary line counts. For example, FW&A predicts that withdrawal of support for the secondary lines of certain ILECs would cause their second line price to increase by $20 per month. FW&A at 26. FW&A then recites several dire consequences that would then result. MCI/WorldCom makes a similar assumption regarding direct retail price impacts. MCI at 6. Such comments ignore the cost characteristics and rate design options that can affect the price of secondary lines.

FW&A incorrectly asserts that the Joint Board and the Commission previously decided that "the only sensible course of action is to provide support for both primary and secondary lines" FW&A at 27. As NASUCA showed in the initial comments, and as the Joint Board knows, the Joint Board previously recommended support for primary lines only and the Commission only reluctantly declined to accept that position, at a time when the fund was much smaller than it is today.

MTA opposes limiting support to primary lines but its reasoning is unclear. MTA acknowledges that "[r]eaching the same customer with a "secondary" line requires only marginal additional investment after the "primary" line is deployed." But MTA concludes that "[a]ny benefit from limiting support to primary lines only would be marginal at best." MTA at 8-9. NASUCA agrees that the incremental cost of second lines is marginal but fails to understand MTA's conclusion that the "benefit" of limiting support to primary lines is also marginal.

C. The Lifeline Program Has Always Supported Only Primary Lines and That Program Has Been Highly Successful Without Undue Administrative Burdens.

The Joint Board's recent Recommended Decision concerning the Lifeline and Linkup programs describes the Lifeline program as follows: "Lifeline provides low-income consumers with monthly discounts on the cost of receiving telephone service for a single telephone line in their principal residence." Recommended Decision at 4 (citing 47 C.F.R. §54.401(a)(2)).[18] Although the Lifeline program does not permit discounts on secondary lines, and while there is no doubt that many Lifeline customers have more than one connection, primary line fraud or abuse has not been a problem in the Lifeline program. Many of the warnings about distinguishing primary and other lines raised by various commenters could apply equally to the Lifeline program. For example, when more than one unrelated individual shares a residence, how does USAC or the ILEC determine whether the line is a primary line eligible for low-income support? The

[18] Recommended Decision, FCC 03J-2 (rel. April 2, 2003), ¶ 4.

experience with the Lifeline program demonstrates that these issues are not so difficult that they interfere with effective administration of the program.

The comparison with the Lifeline program also suggests the need for consistency in the universal service programs. NASUCA cannot identify any good reason that multiple lines of multiple carriers should be supported in the high-cost programs while only single lines to primary residences should be supported in the Lifeline program.

D. The Impact of Second Lines on the Fund

At this point, it is possible to make rough "back of the envelope" calculations of the current impact of second lines on the fund. This can be used to estimate the impact of removing support from second lines.

According to the Staff Study,[19] there are currently 1.16 wirelines per household. Staff Study at 9. Thus for every 1,000 households, there are 1,160 wirelines. Second lines thus represent 13.8% (160/1160) of the wireline total. Therefore, it is reasonable to assume that support for at least 10% of the total wirelines in high-cost areas would be eliminated if second lines were ineligible for support. LECs received $2.93 billion in high cost funds in 2002.[20] Making second lines ineligible for support would thus eliminate approximately $293 million of the high-cost fund.[21]

As for wireless service, it is estimated that 2-3% of wireless subscriptions are the customers' primary (or only) connection to the PSTN. A conservative estimate of the current impact of eliminating wireless non-primary subscriptions would thus be that all

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[19] See footnote 12.

[20] USAC Annual Report 2002 at 25.

[21] This overlooks the impact of second residences and is thus conservative.

but 4% of the wireless support -- or $1.79 million of the 2002 wireless total of $44.8 million[22] -- would be eliminated. This means the high-cost fund would be reduced approximately $43 million to eliminate non-primary line funding for wireless ETCs.

When added to the $293 million needed to fund additional lines of LECs, the total for funding additional lines amounts to approximately $336 million annually, an amount larger than the entire high-cost model support mechanism for non-rural companies. Although the impact from eliminating support to non-primary would not be large at present, it would forestall much of the $2 billion increase in the USF that is projected to result from ubiquitous wireless ETC status.

Both of these projections assume that the mix of second lines and wireless non-primary lines in areas where high-cost support is received is typical of the national average. If there are fewer second lines, or fewer non-primary wireless services, the savings will be less. On the other hand, if there are more second lines or more non-primary wireless connections, the savings will be greater.

III. The Act Does Not Require Universal Service Support for Competition in High-Cost Areas.

A. The Universal Service Fund Should Not Be Used to Artificially Stimulate Competition

It has often been stated that the twin goals of the 1996 Telecommunications Act were the promotion of competition and the preservation and advancement of universal service. The elimination of barriers to entry and unbundling requirements contained in Sections 251 to 253 of the Act set forth the essential provisions allowing competition,

[22] See footnote 20.

while the requirements of universal service are contained in Section 254. Although the Act does not set forth any general intent that one or the other of these goals should have priority over the other, there are several areas where Congress clearly tilted the playing field toward preservation of universal service when rural carriers are involved. In each of these areas, Congress has given states authority to decide whether competition, unbundling and multiple ETCs should be allowed in particular locations.[23] However, once these decisions are made, the Act requires that all carriers be treated equally.[24]

Several commenters argue that the benefits of competition are paramount, and that the universal service fund may properly be used to promote or subsidize competition in high-cost areas.[25] NASUCA disagrees. The universal service fund should be used to achieve the goals set forth in Section 254 of the Act, such as access to services and comparability of rates. Promotion of competition is not listed as a universal service principle.[26] The issue of the proper balance between competition and universal service in all areas is left up to both state and federal regulators. The issue whether competition is

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[23] For example, the rural exemption contained in Section 251(f)(1)(A) allows states to exempt rural telephone companies from the requirements to negotiate with and interconnect, unbundle and resell to competitors under certain circumstances. Section 253(f) permits a state commission to require that a carrier seeking to serve in a rural telephone company's territory qualify as an ETC. Section 214(e) allows discretion on whether to designate more than one carrier as an ETC in the service area of a rural carrier, and then only upon a finding that such designation is in the public interest.

[24] See, e.g., Section 214(e)(1) which states that once a carrier is designated as an ETC, it is "eligible to receive universal service support in accordance with Section 254 …." The Commission has built on this statutory requirement by adopting "competitive neutrality" as an additional universal service principle pursuant to Section 254(b)(7).

[25] See, e.g., the comments of RCA/ARCC at 13-18; SBI at 9-13; Western Wireless at 13-14.

[26] Indeed, as shown by the various comments, perception of even competitive "neutrality" -- the principle added to the list by the Commission -- often depends on whose ox is being gored or being fed.

appropriate in areas served by rural telephone carriers is up to the states in the first instance (or the Commission in areas where the states lack authority to make such determinations).

As discussed in Sections V and VI below, state determinations of whether it is in the public interest to designate more than one ETC in the service area of a rural carrier should be the subject of additional Commission guidelines. However, the Commission should make it abundantly clear that subsidization of competition through use of the universal service fund should not be allowed. Section 254(b)(3) states that:

> Consumers in all areas of the nation, including low-income consumers and those in rural, insular and high-cost areas, should have *access* to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Emphasis added.

The universal service principle set forth in the Act is that consumers should have *access* to comparable services at comparable rates, not necessarily access from multiple providers. If the required access is provided by a single carrier -- as it still is in numerous parts of the country -- the universal service principle is vindicated. However, neither Section 254 nor 214(e) require that the federal USF support an unlimited number of lines for each customer supplied by an unlimited number of providers. In the First Report and Order the Commission recognized that support for multiple lines "may be inconsistent with the goals of universal service" but nevertheless decided to support those multiple lines.[27] The Commission should use this opportunity to reverse its earlier mistake and to return to a system that is consistent with the goals of universal service. Universal service support should be used to provide access to services, but not to artificially promote competition for those services.[28]

B. Designation of Multiple ETCs Can Increase the Cost of Universal Service.

The Joint Board has asked whether support for multiple ETCs increases the costs of universal service. The short answer is that it may, dependent on the overall support mechanism. For example, if multiple ETCs are allowed, but support is limited to primary lines, the overall cost of universal service should not vary appreciably from the costs of a single provider. Similarly, the Texas PUC submitted comments explaining that its state universal service fund is based on the principle of determining the total universal service cost for each area. TexPUC at 6-7. Multiple ETCs compete for this predetermined level of support, but do not add to the overall cost. However, under the current rules for federal support, the additional cost of supporting multiple ETCs is obvious: $57/3 million per quarter and growing.[29]

C. The USF is Not a Cost-Recovery Mechanism.

GVNW asserts that the "Federal USF is an interstate cost recovery approach (four separate mechanisms) for rural carriers." GVNW at 12; see also OPASTCO at 33; USTA at 6. As discussed above, high-cost funding is a mechanism to produce quality services

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[27] First Report and Order, 12 FCC Rcd 8776, 8829, ¶¶ 95-96 (1997).

[28] In this regard, NASUCA agrees with the same position taken by USTA (at 3), Western Alliance (at 8), MTA (at 3), ICORE (at 10), RTFC (at 4, 5), MUST (at 11) and FW&A (at 6-8),

[29] See footnote 9, supra.

at just, reasonable and affordable rates, and to allow rural customers access to services reasonably comparable -- at reasonably comparable rates -- to those available in urban areas. 47 U.S.C. 254(b)(1), (2), (3). This does not make the USF a cost-recovery guarantor for rural carriers, just as it is not a cost-recovery guarantor for non-rural ETCs.

D. States Should Be Allowed to Promote Competition with State Funds, But Such Decisions Should Not Burden the Federal USF

USTA has argued that if a state decides to grant ETC status to multiple carriers, then the state should pay for the additional cost of promoting competition in high-cost areas by means of a state USF. USTA at 15. USTA's proposal should not be adopted since it is neither competitively nor technologically neutral, and would tend to entrench the incumbent ETC. Under USTA's proposal, only an incumbent ETC would be eligible for federal support, while other ETCs designated under Section 214(e) would have to wait for additional support to become available from the state. Such a system would contravene the requirement in Section 214(e)(1) that all ETCs be eligible for federal support under Section 254.

Although NASUCA does not support USTA's proposal, a variation of the proposal may be appropriate to consider. As argued in NASUCA's initial comments and discussed in detail below, federal universal service support under Section 254 should be limited to a single connection for each location in a high-cost area. All ETCs should be free to compete for this support. If an individual state wants to provide support for secondary lines, it should be allowed to do so, but must be willing to pay for the additional lines from state resources. This approach maintains competitive and technological neutrality -- whichever company is designated as primary wins the federal support -- but leaves it up to each state how much more it is willing to pay to promote competition in high-cost areas. However, the cost of support for additional lines should not become the responsibility of the federal USF. As set forth in Section 254(f), a state may adopt additional standards or definitions for its own USF, so long as these standards and definitions do not "burden Federal universal service support mechanisms."

IV. High-Cost Support Should Be Based on Each Carrier's Costs.

The amount of support an ETC receives -- whether incumbent or CETC -- is, of course, a key determinant, both in the size of the fund, and in whether supported services are provided at just, reasonable and affordable rates. Support should be enough to keep supported services rates at those levels, but no higher.

The designation of CETCs is authorized by 47 U.S.C. 214(e)(2). Thus the Commission is faced with determining "the manner in which competitive ETCs receive support (often called the 'portability' of support)."[30] Many of the commenters here assert that "portability" requires competitive ETCs to receive per-line support equal to the support received by the incumbents. See, e.g., Sprint at 11, SBI at 9-13, BellSouth at 7-8. This is incorrect.

Western Wireless argues (at 6) that equal support is required by law. Western Wireless identifies only the First Report and Order for authority that support must be equal; this overlooks the fact that the First Report and Order, six years old now, found equal support merely to be the "least burdensome" method,[31] hardly an endorsement for

[30] Federal-State Joint Board, Letter to Sen. Burns (May 19, 2003) at 1.

[31] First Report and Order, 12 FCC Rcd 8776, 8933, ¶ 289 (1997).

the ages. CTIA cites (at 3) the Ninth Report and Order, four years old now, which posited that there would be "competitive harm from providing unequal support."[32] See Nextel at 18.

The flaw in CTIA's and Nextel's reasoning is shown in the following table:

Scenario	**Competitor given advantage by using equal per-line support**	**Competitor given advantage by using per-line support based on each carrier's costs**
CETC costs less than ILEC costs	CETC	None
ILEC costs less than CETC costs	ILEC	None
ILEC costs equal to CETC costs	None	None

Indeed, the record shows that wireless CETCs in particular tend to have lower costs than ILECs. As RICA notes (at 17) "a wireless carrier receiving the per-line support of the ILEC may well have materially lower per-subscriber costs than is presumed by the amount of support received by the ILEC and thereby recover a windfall." FW&A (at 5) presents a comparison of rural ILEC and wireless carrier costs. See also ICORE at 5.

RCA/ARCC give some indication that some wireless ETCs incur high costs. RCA/ARCC at 9-10.[33] Yet the more compelling argument is that ILECs' costs are higher in large part because of the differential service obligations imposed upon them. RICA states (at 17): "The fact that the wireless carrier's cost is less than the ILEC's is not

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[32] Ninth Report and Order, 14 FCC Rcd 20432, 20479, ¶ 90 (1999).

[33] RCA/ARCC's complaint about wireless carriers' lack of access charge revenue can be at least in part tracked to wireless carriers' failure to offer equal access. In another phase of this proceeding, the wireless carriers are fervently arguing that they should not be required to offer equal access.

evidence that the ILEC is inefficient, because the two services are not equivalent in many respects."[34] See FW&A at 5-6, NTCA at 30-31.

Clearly, the current rule that provides equal per-line support payments based on ILRC costs is a competitive advantage for the CETCs. RCA/ARCC states that "per-line support based on ILEC cost provides appropriate incentives for efficient competitive entry." RCA/ARCC at 24; see also CTIA at 6. By definition, however, competition that requires incentives is not economically efficient. See TCA at 2-3.

This is especially true given that rural carriers' support is currently based on their *embedded* costs, generally acknowledged to be higher than incremental costs. As discussed above, NASUCA submits that it is time for the Commission to transition the larger rural carriers away from support based on embedded costs. See NTCA at 6 (addressing rural carriers in the aggregate). Further, once a CETC has been designated, the ILEC's per-line support should be frozen.

It is necessary to differentiate between the rural and non-rural support mechanisms. The non-rural mechanism, based on a forward-looking cost model, produces a level of per line support that is divorced somewhat from the incumbent's network and does not vary with competitive losses by the incumbent. The rural support mechanism, on the other hand, is based on embedded costs of the incumbent. As a result, rural per-line support amounts vary substantially with changes in number of lines served

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[34] MUST's extended comparison of a "small, cheaply made economy car" (wireless) to a "well-built, full-sized sedan" (ILEC service) (MUST at 29-31) is obviously ILEC-centric and actually makes the wrong analogy: The high-cost USF is designed to provide support to those who make automobiles with a minimum level of features (equivalent to single-party service, touch-tone and access to emergency services, etc.). If a cheaply-made car has all those features, it may be in the public interest to support its production. But no one would argue that the support for the cheaper car should be based on the costs for a sedan.

by the incumbent. The Commission should consider rebasing per-line support for smaller rural carriers to be total embedded costs divided by primary lines only, with the per-line support frozen when a CETC is certified for the same study area. That will reduce the impact on the smaller rural ILECs.

The parties who do not benefit from these higher CETC payments agree that support to each carrier should be based on that carrier's costs. See, e.g., RICA at 20-21, Moultrie at 5-7, CenturyTel at 32, NRIC at 15, 18-20, GPSV at 3, TSTC at 1, ACS at 7.[35] As MTA states:

> [T]he purpose of Section 214 is to permit multiple ILECs to receive universal service [support]. And the purpose of universal service [support] is to ensure affordable, comparable telecommunications services. Support, therefore, should be calculated based on the need, if any, of *each* ETC for such support.

MTA at 7 (emphasis in original).

MCI argues that support for all carriers should be based on a single forward-looking economic cost of supported services. MCI at 2-3. This assumes, of course, that all ETCs offer the same combination of supported services; current Commission rules allow, for example, wireless ETCs to offer a different package than offered by the ILEC. The Texas Commission accounts for this to some extent by using one cost model for wireline ETCs and no model for wireless ETCs in the Texas intrastate fund. TexPUC at 9. Yet the Texas method apparently does not base support to wireless carriers on the wireless carriers' costs, which defeats the purpose of *high cost* support.

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[35] ACS's criticism of the UNE regime is well beyond the scope of this proceeding. See ACS at 12.

On the other hand, OPASTCO at (11-16, 16-18) and ITA (at 7) propose that CETC support should be based on the CLEC's embedded costs. The fact that the Commission has allowed rural ILECs to continue to receive support based on their embedded costs is no reason to extend this regime to new entrants, or to non-rural ILECs for that matter.

The *high cost* support fund should support carriers with *high costs*. Incumbent rural carriers have to show their costs; so should CETCs. FW&A at 23. Yet addition of CETCs should not add to the burden on the fund; thus per-line support should be capped at the ILEC's per-line cost.

V. The Commission and the States are Required to Consider the Unique Characteristics of Incumbent Rural LECs While Considering the Public Interest.

NASUCA agrees with CenturyTel that "the Act … requires regulators to evaluate in a deliberate and thoughtful manner whether a competitor in a rural market will provide a beneficial alternative to the incumbent, or destabilize the fragile market, thereby hindering the delivery of universal service by *any* provider." CenturyTel at 6-7 (emphasis in original). The Rural Task Force pointed out the significant operational difficulties faced by rural companies, including lack of density, lower percentages of business customers, smaller switches, and a customer base with lower disposable incomes.[36]

NASUCA disagrees with the suggestion by the WUTC (at 1, 2) that there was no Congressional intent to make a distinction between rural incumbent local exchange

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[36] Rural Task Force White Paper No. 2, *The Rural Difference* (2000).

carrier and other carriers. Congress explicitly provided in the Act that the states *may* grant requests from competitive providers for ETC status in areas served by rural incumbent carriers when found to be in the public interest -- as opposed to the directive that states *shall* grant ETC status to competitors in non-rural carriers' territory. Congress clearly left the obligation for the public interest determination -- based on that distinction -- to the states. WUTC at 7. The question posed by the Joint Board in the Public Notice (¶ 33) is squarely targeted to the basic obligations that are placed on the Joint Board and upon the states in terms of determining the public interest.

NASUCA urges the Joint Board to take stronger steps to encourage the states to fully consider the impact of competitive entry into high cost areas served by rural carriers, areas that currently receive high cost support. The impact of competitive entry into high cost areas supported by universal service funding can be significant. We urge the Joint Board to ensure that the states "do the math" when they consider the public interest in allowing competitive entry in high cost areas. As a CETC takes market share from a rural incumbent, the incumbent's per-line costs rise. The incumbent receives more USF funding and the CETC's funding rises also. Rural competition in such an environment provides none of the benefits one would expect to receive from competition -- lower costs and better service. Rural competition in that environment produces negative consequences for consumers in terms of increased universal service funding and, thereby, higher costs to consumers nationwide.[37]

[37] Even if the other recommendations herein -- such as determining ILEC ETC support on a per-line basis, capping ETC support upon CETC entry and basing support on each carrier's cost -- are adopted, there may remain concerns with designating CETCs in small rural ILECs' territories.

VI. The States Must Place Additional Requirements on CETCs Consonant with the Public Interest.

NASUCA has a strong history of supporting the competitive process in telecommunications markets. However, we disagree with the suggestion by RCA/ARCC that "when a carrier applies for *federal* ETC status, states should not be permitted to place additional service quality standards on ETCs." RCA/ARCC at 23 (emphasis added). To the contrary, NASUCA firmly believes that when considering the designation of CETCs, state commissions must require the competitive provider to offer a like product at competitive rates, including quality of service standards that are comparable to those of the incumbent, whether the incumbent ETC is a rural or non-rural carrier. The Joint Board should encourage the states to fully inquire into the nature of the service that will be provided by the recipient of universal service funding, in the same manner as the states regulate quality of service for incumbent LECs. The concept of a competitive product should be viewed as a service that could replace the service provided by an incumbent LEC, including a flat rate option, ubiquitous service, competitive rates and equal access. The states certainly have leeway to grant temporary concessions to new competitors on quality of service. However, some reasonable level of service quality should be a minimum expectation for receipt of universal service support.[38]

NASUCA also urges the Joint Board to reject the suggestion of RCA/ARCC that "under no circumstances should a state commission, in performing its tasks under section 214(e)(2), consider the financial impact that the designation of an additional ETC in a rural market may have on the solvency or stability of the USF." RCA/ARCC at 15. To

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[38] For wireless carriers, there should be the same requirement of emergency access, including backup when there is a power outage, required of wireline carriers.

the contrary, as both beneficiaries and contributors to the USF, the states have a significant role as guardians of the public interest to ensure that USF funds go toward the purpose they are intended to achieve and to ensure that rates are reasonable and affordable. The states should be encouraged to exercise those responsibilities to a greater extent in the future.

VII. Additional High Cost Support Recommendations Based on Initial Comments

As discussed above, in initial comments NASUCA made specific recommendations to control the growth in the USF. The self-serving comments of many carriers, whose recommendations would inevitably lead to massive increases in the USF and concomitant burdens on consumers, are of grave concern. Based on the tenor of those comments, NASUCA makes two additional recommendations here. The Joint Board should take these additional steps to eliminate gaming and unnecessary costs in the universal support system, and to harmonize the rural and non-rural support mechanisms to the extent possible.[39]

First, support should be based on a carrier's entire operations within a state. High cost support for non-rural carriers is currently averaged at the state level, that is, the costs of all non-rural carriers in that state are averaged together in order to determine support.[40] This properly limits federal responsibility for support of individual non-rural companies

[39] In Attachment I, page 9 of its comments, Western Wireless succinctly sets forth the differences between the rural and non-rural support mechanisms.

[40] 47 C.F.R. §54.309(a)(4).

within the state. On the other hand, support for rural carriers is not even averaged across an individual carrier's entire operations within a state. A single rural carrier may provide service in several separate study areas within a state, and receive high-cost support for each study area independent of the existence of the others. The result is that the rural carrier receives far more support than if the carrier's entire operation within the state were considered as a single study area.

For example, ALLTEL has five separate study areas in Georgia, serving over 600,000 access lines, and receives some type of federal USF support for all of them.[41] Since switching support is only given to carriers serving less than 50,000 lines, keeping the study area separate allows ALLTEL to continue receiving $130,000 per year for local switching support for Georgia Tel Corp. It also allows ALLTEL to avoid having to average the loop costs of ALLTEL Georgia, Standard Telephone, Georgia ALLTEL, and ALLTEL Georgia Communications -- which receive loop support -- with the loop costs of Georgia Telephone, which does not.

In order to ensure that carriers receive appropriate levels of support, the Commission must ensure that its rules recognize the reality of each company's operations within a state. The Commission should require consolidation of all study areas served by a single carrier within a state within two years of the adoption of a rule requiring such consolidation.[42] On a going-forward basis, such consolidation should be required within five years of acquisition of additional study areas. This change will not discourage

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[41] The material in this paragraph is derived from "USF 2002 Submission of 2001 Study Results," National Exchange Carrier Association (October 1, 2002), Tab 6, pp. 7-8; "Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2003," USAC (May 2, 2003), App. HC01.

[42] Equally, the Washington UTC's position that Qwest's Seattle costs should be averaged with its rural costs in Washington (WUTC at 2-3) ignores the states' responsibility to address intrastate conditions.

rational expansion by rural carriers, but at the same time will not result in an indefinite entitlement to universal service subsidies based on artificial divisions. On the other hand, NASUCA also recommends that after a five-year waiting period, all rural study areas owned by a rural carrier within a state should receive support based on the rural carrier's own costs. Under current rules, 47 C.F.R. §54.305, the purchasing carrier can get no more per line support than the selling carrier. Amending this rule to allow recovery of actual costs after five years would remove a current disincentive to rural carriers buying the rural exchanges of non-rural carriers, and would increase support to some carriers.

Second, the Commission should express its intention to apply the forward-looking cost model to larger rural carriers -- those serving 50,000 lines or more within a state -- at the end of the five-year period adopted in the Rural Task Force order.[43] Currently, the approximately 80 non-rural carriers, serving 92% of the access lines in the nation, have high-cost support determined using the forward-looking cost model. On the other hand, the approximately 1300 rural carriers, serving 8% of the access lines in the nation, have high-cost support determined based on the total embedded cost of the rural carrier.[44]

The Commission initially indicated its intention to move all carriers to support based on the model.[45] However, in the Rural Task Force order the Commission decided to use a modified embedded support mechanism for rural carriers for a period ending

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[43] Fourteenth Report and Order, ¶25.

[44] CC Docket 96-45, "Rural Task Force Recommendation," (September 20, 2000) at 11; *The Rural Difference* at 22-23.

[45] First Report and Order, ¶¶ 224-229.

June 30, 2006, and continue working on a long term solution for determining support for rural carriers.[46]

Moving larger carriers (serving more than 50,000 access lines within a state) to the model would affect only 76 carriers, but would cover approximately seven million lines, or 50% of the total lines served by rural carriers.[47] This would leave only the truly small rural carriers operating under the embedded-cost support system. Use of the forward-looking cost model for a greater number of access lines would help ensure that support is based on an objective cost-efficient standard, and would also help restrain growth in the fund.[48]

VIII. Other Issues

The number of issues raised by the comments is, as expected, far more than can be fully addressed in the time allotted by the Commission. These reply comments have already responded at length on the major issues. Yet there remain a few issues that require brief additional comments.[49]

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[46] Fourteenth Report and Order, ¶12.

[47] *The Rural Difference*, p. 21-26. Adoption of NASUCA's recommendation to consolidate all study areas owned by a single carrier would add 71 study areas and a million lines to this total.

[48] Even if larger rural carriers are moved to the model, it may be appropriate to retain other aspects of the rural support mechanism for these carriers. For example, because of their size, support for rural carriers should continue to be determined at the study area level, rather than averaged with all other carriers within a state. If the costs produced by the model are greater than embedded costs, then embedded costs should be used.

[49] NASUCA's failure to address a particular party's arguments in these reply comments should not be construed as agreement with that party.

A. Discussion of rate rebalancing has no place in this proceeding.

ETC support is based on costs, not rates. See, e.g., Public Notice, ¶ 4. If an ETC operates in a high-cost area, it receives support. Yet Sprint argues that the Commission should set a minimum local service rate as a condition of receiving US funding. Sprint at 15.[50] SBC, for its part, would require an ETC to charge no less than a national "affordability benchmark." SBC at 6.[51] Given the current disconnect between support and rates, Sprint's and SBC's proposals are unreasonable, and would turn the concept of universal service on its head.

Section 254 stands for the principles that rates should be just, reasonable and affordable, and that rates and services in rural areas should be comparable to those available in urban areas. The purpose of Section 254 is not to raise rates, but to provide protection to ratepayers in case the advent of competition results in upward pressure on rates. As NASUCA has responded to the same recommendation in other proceedings, the Joint Board should reject Sprint and SBC's rate rebalancing proposals out of hand. Further, the task of determining, for the entire nation, a single just, reasonable and

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[50] Sprint's local carrier in Ohio just agreed to a plan that caps its basic local service rates indefinitely. *In the Matter of the Application of United Telephone Company of Ohio dba Sprint for Approval of an Alternative Form of Regulation Pursuant to Chapter 4901:1-4, Ohio Administrative Code,* PUCO Case No. 02-2117-TP-ALT, Finding and Order (October 3, 2002); available at http://dis.puc.state.oh.us/dis.nsf/0/95C719F8EDF5F0E385256C1A00411C88?OpenDocument&target="MainBody". Presumably Sprint does not need US funding in Ohio, or is sure that its basic local service rates are above cost.

[51] SBC says that "ILECs are left holding the bag for serving the majority of residential customers at below-cost rates…." SBC at 4. SBC's local carrier in Ohio also just agreed to a plan that caps its basic local service rates indefinitely. *In the Matter of the Application of Ameritech for Approval of an Alternative Form of Regulation*, PUCO Case No. 02-3069-TP-ALT, Finding and Order (January 6, 2003) at 7; available at http://dis.puc.state.oh.us/dis.nsf/0/E922F47735F812AB85256C780078F351?OpenDocument&target="MainBody". Presumably SBC does not need US funding in Ohio, or is sure that its basic local service rates are above cost.

affordable rate for quality service that allows rural customers access to services reasonably comparable -- and at reasonably comparable rates -- to those available in urban areas, would be a very difficult task, much like selecting a single national price for unbundled network elements.[52]

On a related note, once again SBC is dead wrong when it claims that the Act required elimination of implicit *intrastate* support mechanisms. SBC at 3. Because of the complexities of intrastate rates compared to interstate rates and the varieties of intrastate rate regulation, achieving an assurance that each service provides the economically efficient intrastate revenue would, again, be an impossible and useless effort.[53]

B. NASUCA Agrees with All Other Commenters That an Auction Mechanism Would Be a Poor Choice for Awarding High-Cost Support.

The vast majority, if not all, of the comments filed in this proceeding argue against an auction process to award ETC designation and high-cost support. See, e.g. MUST at 34, OPASTCO at 28, Sprint at 11, TSTC at 10, NRIC at 16, GVNW at 10, ATA at 18, FW&A at 27, MTA at 7 and RICA at 23.

An auction mechanism would be worthy of consideration only if there existed multiple ETC's already capable of providing interchangeable "carrier of last resort" service to all persons in a service area. Regardless of policies that aim to create

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[52] NASUCA has supported the use of a national rate benchmark, such that areas where rates are higher than the benchmark would receive additional support. See Comments filed December 12, 2002 at 5-6. Setting a *minimum* local rate below which no support would be received raises very different concerns.

[53] AT&T would bypass the state process by allowing ILEC ETCs to recover lost revenue through their subscriber line charges ("SLCs"). AT&T at 25-26. This would be nothing more than Commission-sponsored Ramsey pricing.

competitive neutrality with respect to high-cost support, the telecommunications market in most of the U.S. is not yet at the point any single provider is available to, or required to, provide ubiquitous service as reliably as the ILEC. NASUCA agrees with OPASTCO that services of different types of ETCs are not necessarily substitutable for one another. OPASTCO at 29. Moreover, if an auction were to be won by a non-ILEC, there would be substantial and sudden shifts of revenues that would require undue regulatory intervention.

Even if multiple qualified carriers were available to bid in an ETC auction, NASUCA believes that the service being bid upon -- long-term reliable service -- is not amenable to an auction mechanism which is better suited to relatively short term contracts. See RICA at 24. RICA also correctly observes that, under an auction scenario, support would no longer be predictable, as required by the Act. *Id*.; see also MTA at 7. NASUCA agrees with OPASTCO that provision of reliable and ubiquitous service requires long-term investment decisions. OPASTCO at 29. While ILECs should be subject to competitive losses under changing industry circumstances, auctions have the potential to create sudden artificially induced winners and losers. Therefore, an auction system would not be likely to bring simultaneous viable choices to rural customers comparable to those in urban areas, as intended by Congress. See NRIC at 16.

Any winner of an ETC auction would not have incentives to make long-term investments in facilities or to provide good customer service, if that carrier's obligations were subject to elimination after a short period of years. Similarly, any long-term contract awarded to a single firm would detract from competitive opportunities that could develop during the term of the contract. Assuming the ILEC is the likely winner of an auction, the expected result will be a reversal of recent policies to enhance competition in rural areas and to provide support in a competitively neutral manner. See Sprint at 33.[54] On the other hand, it is difficult today, to imagine a wireless provider being designated as a provider of last resort.[55] In either case, potential harm is greater than the potential benefit that could be expected by limiting costs through an auction process.

NASUCA agrees with those commenters that expressed concern about the incentives for degradation of quality by any entity that wins an ETC auction. An entity offering the lowest bid may have a direct incentive to decrease service quality. See OPASTCO at 29. MTA warns of a "race to the bottom" with respect to quality and availability of services that could result from an auction process. MTA at 8. By awarding the right to receive support to one entity, the incentive to compete for support would be eliminated. NASUCA cited the benefits of competition over each primary line designation in its initial comments. Auctions, however, fail to provide any of the most important incentives, as noted by commenters such as ATA, GVNW and OPASTCO. ATA at 18, GVNW at 10-11, OPASTCO at 29.

C. AT&T's Recommendation To Separate High-Cost and Low-Income ETC Designation Deserves Serious Consideration

AT&T correctly points out that the high-cost and low-income programs serve different functions and suggests that ETC designations should be made separately for

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[54] Sprint also argues that an auction process would be in violation of §254. Sprint at 12.

[55] Concerns remain about wireless services' reliability, emergency access, network vulnerability during power interruptions, adequacy of signal strength, and affordability.

each of those programs. AT&T at 29-31. NASUCA agrees with AT&T's recommendation with one modification or clarification. NASUCA strongly recommends that all high-cost ETC's continue to be required to participate in the Lifeline and Linkup programs. Therefore, any high-cost ETC designation would continue to be combined automatically with low-income program designation. There may be, however, additional carriers that would not qualify for high-cost support or that, for other reasons, decline to seek ETC designation and high-cost support. For those carriers, NASUCA recommends that the Joint Board and Commission create a new low-income ETC designation process whereby carriers would be encouraged to seek designation as "Low-Income ETCs," offering competition for low-income consumers.[56] This recommendation, if adopted, would result in enhanced competitive neutrality and more choices for low-income customers. It would also further the purposes of the Lifeline program.

NASUCA recommends that the Joint Board and the Commission study specific incentives for non-ETC carriers to seek low-income ETC designation. Incentives may be necessary because, unlike high-cost support, which constitutes revenue to the carrier, low-income support is a direct pass-through to the customer.

CONCLUSION

The Commission should:

- Limit support to single lines for each location;
- Limit the amount of per line support to the lesser of a carrier's own costs or the costs of the incumbent;

[56] The Lifeline program would have to be offered at a price comparable to that of the ILEC. This would prevent high-priced so-called prepaid providers from taking advantage of the fund.

- De-link the designation of ETCs from the promotion of competition;
- Require the states to carefully examine the designation of multiple ETCs in rural carriers' territories, in order to protect the public interest;
- Require carriers to provide a basic quality service package in order to be designated an ETC, in order to protect the public interest; and
- Apply the forward-looking cost test to the largest rural carriers, and combine rural carriers' study areas within a single state.

These actions will "preserve and advance" universal service as required by the law.

Respectfully submitted,

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Wayne R. Jortner
Senior Counsel
Maine Public Advocate
wayne.r.jortner@maine.gov
112 State House Station
Augusta, ME 04333
Phone (207) 287-2445
Fax (207) 287-4317

____
David C. Bergmann
Assistant Consumers' Counsel
Chair, NASUCA Telecommunications Committee
bergmann@occ.state.oh.us
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Phone (614) 466-8574
Fax (614) 466-9475

NASUCA
8300 Colesville Road (Suite 101)
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380